

## GENERAL TERMS AND CONDITIONS OF SALE

### Property, Conveyance and Title Insurance

The terms of sale set forth herein are subject to the provisions of Statutes found in §77-2-301 through 323, Montana Code Annotated.

- The property to be sold is described in the Legal Notice.
- All of the State's interest as lessor or sublessor in any leases, rental, or occupancy agreements covering any portion of the property, and exclusive easements, rights of way, water rights, and other rights used in connection with the property will be conveyed unless the Legal Notice lists rights that will be reserved.
- All property sold is subject to existing easements and encumbrances on file with the County Clerk and Recorder or the Montana Department of Natural Resources and Conservation.
- Those minerals and access rights described in Section 77-2-304, MCA, are reserved from sale.
- All property is sold subject to all assessments unpaid at time of sale.
- All property is sold "**AS IS**", without any warranty of title. Bidders are encouraged to examine the property offered for sale to ascertain for themselves the condition of the property, and the existence, if any, of encumbrances, encroachments, etc. The State does not make, and specifically disclaims any warranties, express or implied, including any warranty of merchantability or fitness for a particular purpose, about property offered for sale, including, but not limited to any improvements located thereon, and no employee or agent of the State is authorized to provide any such warranty. Additionally, without limitation, the State does not warrant the existence or nonexistence of any pollutants, contaminants, or hazardous waste prohibited by law or claims based thereon arising out of the actual or threatened discharge, release, disposal, seepage, migration, or escape of such substances at, from, or into any State land offered for sale. Purchaser shall fully release the State from any and all liability to the Purchaser arising out of or related to the condition of the property prior to closing. Purchaser shall indemnify, defend, and hold harmless the State with respect to, but not limited to any claims, damages, liabilities, penalties (civil and criminal), and any other costs, including attorney's fees and costs imposed or related to any hazardous, toxic, dangerous, or harmful substances on the property, deposited or released after the title to the property has been conveyed to the Purchaser.
- The State conveys title by Patent, grant deed, or quitclaim deed as determined by the Department, and executed by the Governor of the State of Montana. The State shall arrange for the appropriate deed to be executed by the Governor upon final approval of the sale by the Board of Land Commissioners and confirmation that the State Treasurer has received the full purchase price and other payments required of the Purchaser.
- The State does not furnish title insurance.
- Closing shall occur at the Department's Helena office.
- Purchaser must also execute any other documents necessary to consummate sale as provided herein.

### Purchase Price and Payment

- The purchase price consists of the amount of the winning bid, which will be at or above the appraised fair market value and other charges as per the Real Property Sales Notice applicable to this sale.
- Full payment of the purchase price shall be made in the form and within the time specified in the Legal Notice.

### **Destruction or Condemnation**

- If on or before the date set for full payment of the purchase price, the property is either materially damaged, or condemnation proceedings are commenced with respect to the property, the Purchaser shall have the right, at its sole election, by giving notice to the State prior to the date of payment, either to terminate the purchase or to purchase the property. If Purchaser elects to terminate the purchase, the bid deposit will be returned to the Purchaser and all rights and obligations of the Purchaser and State under the public auction shall terminate.
- Should the Purchaser purchase the property, the Purchaser shall have the right to receive Condemnation awards payable by reason of the damage or condemnation occurring prior to sale. Should the Purchaser elect to terminate the purchase, the State shall retain all such Condemnation awards.

### **Notices**

- Any notices given by State to the successful bidder shall be in writing and shall be deemed given upon personal service or deposit in the United States first class mail, postage prepaid, addressed to the bidder at the last address furnished by him or her in writing.

### **Prorations**

- The State will prorate all irrigation, water, sewer, utility, maintenance or other expenses with respect to the operation of State property between the Purchaser and the State as of the date of execution of the deed to the property by the Governor, or as of the date on which the department executes the real estate contract for the sale of the property, as the case may be. Prorations are due and payable at the same time as the full payment of the purchase price.

### **Real Estate Commissions**

- Real estate commissions are paid at the discretion of the Director. Only those parcels for which a commission is published are eligible for a commission. For all other sales, the real estate agent or broker acting in connection with a sale shall be deemed to be the sole agent of the Purchaser, and the Purchaser shall pay any real estate commission payable in connection therewith.

### **Assignment**

- No purchaser of State land may assign its purchase rights without the prior written consent and acceptance by the State, which consent and acceptance the State may withhold in its sole and absolute discretion.

### **Possession**

The Purchaser of State land is entitled to possession upon execution of the deed by the Governor, subject to any existing leases and rights of persons in possession of the property, unless otherwise noted in the Legal Notice. All property is sold subject to settlement with the lessee for improvements (if any) to the land as required by Sections 77-6-302 through 306, Montana Code Annotated.

**Miscellaneous**

- Venue for any disputes involving auction sales shall be in Lewis and Clark County.
- The Purchaser's representations, warranties, and obligations shall be operative on and after any conveyance of the Property, and shall not be deemed to have merged with any deed, or be extinguished as a result of the conveyance.